

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EMANUEL LOPEZ,

Plaintiff,

v.

**COMCAST CABLE COMMUNICATIONS
MANAGEMENT LLC,**

Defendant.

Case No. 15-cv-01220-YGR

**ORDER GRANTING MOTION FOR LEAVE TO
AMEND; MODIFYING CASE DEADLINES**

Re: Dkt. No. 26

Plaintiff Emanuel Lopez brings this action against Defendant Comcast Cable Communications LLC (“Comcast”). Plaintiff alleges claims for disability discrimination and retaliation under the California Fair Employment and Housing Act (“FEHA”) in relation to his employment with Comcast. Subsequent to the March 14, 2015 filing of the complaint herein, Plaintiff was terminated by Comcast. Plaintiff now seeks to amend his complaint to add a new claim for wrongful termination in violation of public policy, as well as additional factual allegations to support his existing claims. Comcast argues that the Court should deny the motion because Lopez has delayed unreasonably and it will be prejudiced by allowing the amendment.

Having carefully considered the papers submitted and the pleadings in this action, and for the reasons set forth below, the Court hereby **GRANTS** the Motion for Leave to Amend and **CONTINUES** the deadlines in the case as set forth herein.¹

A party seeking to amend his complaint after the date specified in the scheduling order must show good cause for the amendment under Rule 16(b), then, if “good cause” be shown, the party must demonstrate that the amendment was proper under Federal Rule of Civil Procedure 15.

¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds this motion appropriate for decision without oral argument. Accordingly, the Court **VACATES** the hearing set for **January 26, 2016**.

Johnson v. Mammoth Recreations, 975 F.2d 604, 608 (9th Cir. 1992). Rule 16(b)'s good cause standard primarily considers the diligence of the party seeking the extension. *Id.* at 609. Federal Rule of Civil Procedure 15(a) provides that "[t]he court should freely give leave [to amend the complaint] when justice so requires." Fed. R. Civ. P. 15(a)(2). The court considers the following factors in deciding whether to grant leave to amend: (1) whether the amendment was filed with undue delay; (2) whether the movant has requested the amendment in bad faith or as a dilatory tactic; (3) whether movant was allowed to make previous amendments which failed to correct deficiencies of the complaint; (4) whether the amendment will unduly prejudice the opposing party; and (5) whether the amendment is futile. *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003); *Foman v. Davis*, 371 U.S. 178, 182 (1962). These five factors are not weighed equally and prejudice is the most important factor. *Eminence Capital, LLC*, 316 F.3d at 1052. "Absent prejudice, or a strong showing of any of the remaining *Foman* factors, there exists a *presumption* under Rule 15(a) in favor of granting leave to amend." *Id.* (emphasis in original).

The Court has considered the arguments presented by the parties and finds that leave to amend should be granted. The record reveals no undue or bad faith delay in seeking to amend the complaint and, to the extent the request to amend the complaint would create any prejudice under the current schedule, such prejudice is completely eliminated by a brief continuance of those deadlines. Therefore, the Court modifies the deadlines in this case as follows:

Event	Current Deadline	New Deadline
Non-Expert Discovery Cutoff:	April 1, 2016	June 1, 2016
Disclosure Of Experts (Retained/Nonretained):		
Opening:	June 24, 2016	August 19, 2016
Rebuttal:	July 15, 2016	September 9, 2016
Expert Discovery Cutoff:	August 5, 2016	September 30, 2016
Dispositive Motions To Be Heard By:	June 7, 2016	August 23, 2016
Compliance Hearing Friday	August 19, 2016	October 21, 2016
Joint Pretrial Conference Statement:	August 26, 2016	October 28, 2016
Pretrial Conference:	September 9, 2016 at 9:00 a.m.	November 9, 2016 at 2:00 p.m.
Trial Date:	September 26, 2016 at 8:30 a.m.	Tuesday, November 29, 2016 at 8:30 a.m.

1 Accordingly, the Motion for Leave to Amend is **GRANTED**. Plaintiff shall file his amended
2 complaint no later than **January 19, 2016**. Comcast shall file its response no later than **February**
3 **9, 2016**.

4 This terminates Docket No. 26.

5 **IT IS SO ORDERED.**

6 Dated: January 15, 2016

7 

8 **YVONNE GONZALEZ ROGERS**
9 **UNITED STATES DISTRICT COURT JUDGE**
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28